

# Legislative Analysis



## **SEXUAL ASSAULT VICTIMS' FORENSIC MEDICAL INTERVENTION & TREATMENT ACT; CREATION OF FUND; INCREASES TO 'MINIMUM STATE COSTS'**

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**House Bills 5054-5057**

**Sponsor: Rep. Marie Donigan**

**Committee: Judiciary**

**Complete to 9-4-07**

### **A SUMMARY OF HOUSE BILLS 5054-5057 AS INTRODUCED 7-24-07**

House Bill 5054 would create the Sexual Assault Victims' Medical Forensic Intervention and Treatment Act and a corresponding fund. House Bills 5055 and 5056 would increase the amounts imposed as a minimum state cost on persons convicted of, and juveniles found responsible for, criminal offenses. House Bill 5057 would reallocate the distribution of the funds generated by collection of the minimum state costs. The bills are tie-barred to each other, meaning that none of the bills could take effect unless all were enacted. A more detailed description of each bill follows.

#### House Bill 5054

The bill would create the Sexual Assault Victims' Medical Forensic Intervention and Treatment Act, create a fund by the same name, define terms, allocate the distribution of money from the fund, and establish certain reporting requirements.

Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund. The fund would be created within the state treasury; the state treasurer could receive money or other assets from any source for deposit into the fund and the treasurer would direct the fund investments as well as credit the interest and earnings from the investments to the fund. Money remaining in the fund at the close of a fiscal year would remain in the fund and not lapse to the general fund. However, for auditing purposes, the Department of Community Health (DCH) would be the administrator of the fund.

The Domestic Violence Prevention and Treatment Board would have the authority to require an annual audit of income and expenditures from the fund. The board would be required to provide an annual report of income and expenditures to the Secretary of the Senate and Clerk of the House of Representatives by February 1<sup>st</sup> of each year. The board also could promulgate administrative rules to implement the bill's requirements.

Expenditures from the fund would be by appropriation, in the form of grants and contracts awarded by the board in a manner that reflected the state's population, geographic area, and urban and rural diversity using criteria developed by the board in conjunction with the DCH.

Money could not be expended from the fund for the first year after the bill's effective date, but could be expended beginning two years after its effective date. No more than 10 percent of the money in the fund could be expended for administrative costs incurred by the board in implementing and administering the bill. Not more than 15 percent could be expended for medical forensic intervention-related training and technical assistance for staff members and for needs assessment. At least 80 percent of the money would have to be distributed to entities that did all of the following:

\*\* Performed procedures required by sexual assault evidence kits.

\*\* Provided specialized assistance to victims.

\*\* Operated under the auspices of or in partnership with a local sexual assault crisis center. "Local sexual assault crisis center" would be defined to mean a public or private agency offering specialized direct assistance to victims, including, but not limited to, a 24-hour telephone hotline answered by a sexual assault counselor or trained volunteer; information and referral services; advocacy services; service coordination; and community awareness or education programs on sexual assault services.

\*\* Complied with training and practice standards of the International Association of Forensic Nurse Examiners or a similar organization designated by the board.

\*\* Provided 24-hour access to medical forensic intervention and treatment services.

#### House Bills 5055 and 5056

The bills would amend the Code of Criminal Procedure (MCL 769.1a) and the Probate Code (MCL 712A.18m), respectively, to increase the minimum state costs assessed in criminal cases by \$5 for each crime category. House Bill 5055 would apply to adults and juveniles tried as adults who were convicted of a crime and House Bill 5056 would apply to juveniles within the court's jurisdiction.

Under the bills, these costs would be increased from \$60 to \$65 for felony offenses, from \$45 to \$50 for serious or specified misdemeanor offenses (as defined by the William Van Regenmorter Crime Victim's Rights Act and the Crime Victim's Rights Services Act), and from \$40 to \$45 for other misdemeanor offenses. (Revenue generated by the minimum state costs is deposited into the Justice System Fund.)

#### House Bill 5057

The bill would amend the Revised Judicature Act to reallocate distributions from the Justice System Fund. Money in the fund is required to be distributed monthly to various other funds. Currently, from the fund's proceeds, the state treasurer must first distribute revenue to the Secondary Road Patrol and Training Fund in an amount equal to \$10 for each civil infraction action on which assessments are collected each month. The rest of the fund balance is then distributed to various funds on a percentage basis.

The bill would add the Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund (created by House Bill 5054) to the list of funds that receive money from the Justice System Fund. As the chart below indicates, the bill would also revise the future percent allocation that each fund would receive from the Justice System Fund balance as follows:

\*\* To the Highway Safety Fund, 24.11 (decreased from 24.8).

\*\* To the Jail Reimbursement Program Fund, 12.05 percent (decreased from 12.4).

\*\* To the Michigan Justice Training Fund, 12.05 percent (decreased from 12.4).

\*\* To the Legislative Retirement System for deposit in the retirement fund, 1.12 percent (decreased from 1.15).

\*\* To the Drug Treatment Courts Fund, 2.77 percent (decreased from 2.85).

\*\* To the State Forensic Lab Fund, 5.44 percent (decreased from 5.6).

\*\* To the State Court Fund, 12.93 percent (decreased from 13.3).

\*\* To the Court Equity Fund, 24.79 percent (decreased from 25.5).

\*\* To the Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund, 2.74 percent.

The current allocations to the state treasurer for monitoring of collection and distribution of fund receipts, and to the state court administrative office for management assistance and audit of trial court collections, would each remain at the current level of one percent of the Justice System Fund balance. Finally, the bill would delete an obsolete provision pertaining to distributions from the fund for the 2003-2004 fiscal year.

## **FISCAL IMPACT:**

Currently, the Justice System Fund (JSF) receives revenue from various funding sources and distributes the revenue to ten different state funds. The distribution is determined by a set percentage of the total fund – except for the Secondary Road Patrol Training Fund which receives \$10 for each traffic assessment. The remaining nine funds divide 100 percent of the remaining funding after this deduction. In Fiscal Year 2006, the Justice System Fund total is estimated to be \$72.0 million. The secondary Road Patrol Training Fund is estimated to receive \$13.75 million which would leave approximately \$58.25 million to be divided among the remaining nine funds.

House Bill 5054 would create a Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund within the State Treasury. Money from the fund would be

distributed through the Domestic Violence Prevention and Treatment Board (DVPTB), which is housed within the Department of Human Services. House Bill 5054 does not directly create any new revenue for deposit in the fund, although revenue is earmarked for the fund in companion bills. Assuming revenue is eventually deposited in the fund for distribution through the DVPTB, the bill would increase costs to the DVPTB related to administering these dollars. However, the bill allows up to 10 percent of money deposited in the fund to be used to meet these administrative expenses.

House Bills 5055 and 5056 increase by \$5 the minimum state costs that a defendant pays for a felony conviction or misdemeanor (including juvenile convictions – House Bill 5056). These \$5 increased assessments would be deposited into the JSF, generating additional revenue to the fund. Trial courts currently collect state court cost assessments now on every misdemeanor and felony (See chart below). This new assessment would be added to the current assessment amounts, meaning that, in general, the collection mechanism is already in place. The proposal would make the following changes to state court assessments:

<b>OFFENSE</b>	<b>CURRENT STATE COSTS ASSESSMENT</b>	<b>STATE COSTS ASSESSMENT WITH \$5 INCREASE</b>
Misdemeanors: Non-Crime Victims Rights	\$40.00	\$45.00
Misdemeanors: Crime Victims Rights	\$40.00	\$50.00
Felonies	\$60.00	\$65.00

According to Judiciary estimates, in Fiscal Year 2006, revenue was collected on approximately 35,000 to 40,000 felonies and 300,000 to 350,000 misdemeanors. Based on the assumption that JSF current revenue totals \$72.0 million and that the conservative estimate of approximately 335,000 felonies and misdemeanors are collected upon, the additional revenue from the \$5 increase in minimum state cost assessments would generate an estimated \$1.675 million to the JSF yearly. If the highest estimate of felony/misdemeanor collections was calculated, 390,000 collections, then the estimate of additional revenue would be \$1.95 million.

House Bill 5057 would revise the percentage amounts that each of the 10 funds (the bill would also distribute money to the Sexual Assault Victims' Forensic Intervention and Treatment Fund) would receive from the JSF.

## New Justice System Funding Model – Includes Proposed Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund

The following table lists the current funds' funding distribution and what new percentage each fund would receive under House Bill 5057:

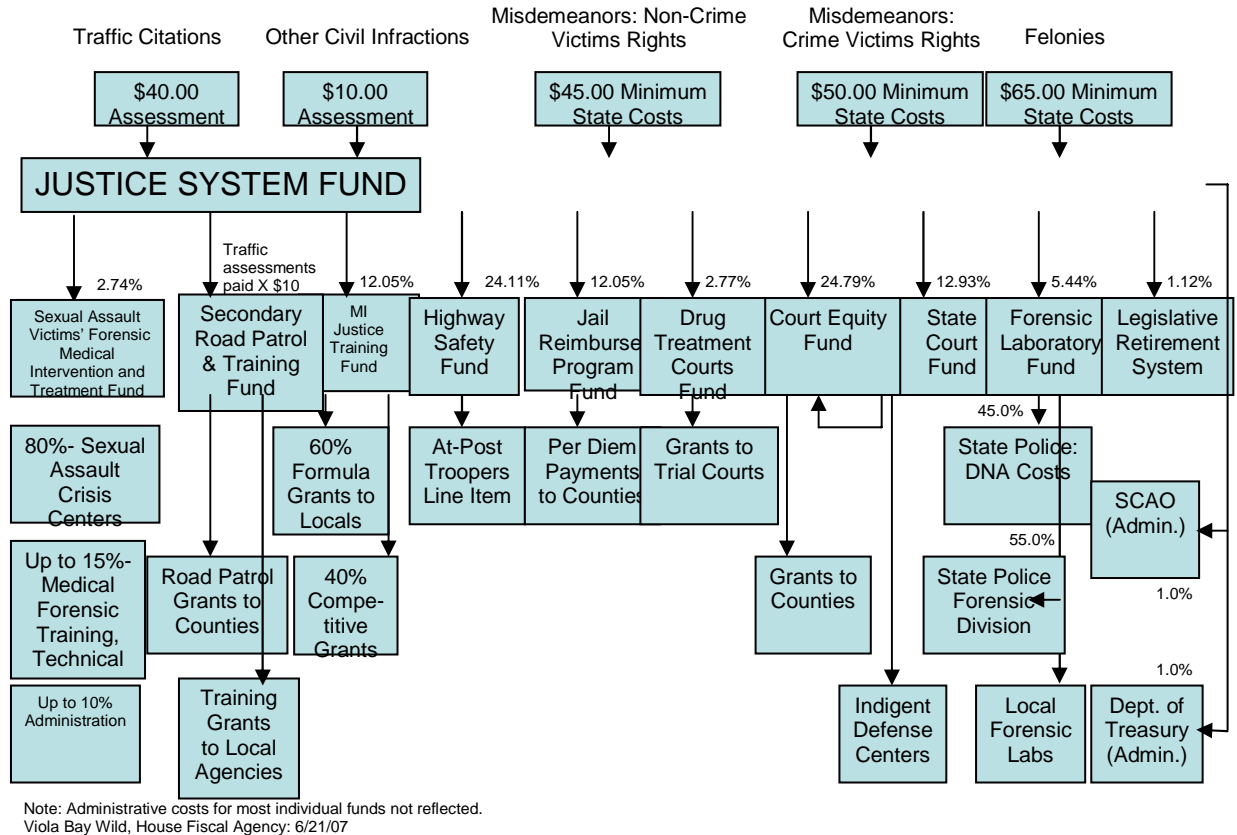
	Current % of Remaining Funds	Estimated FY 06 Distribution**	CY Funding as % New Distribution*	New Funding Distribution	Difference from Estimated Current Funding
Highway Safety Fund	24.80%	14,446,000	24.11%	14,447,918	1,917
County Jail Reimbursement Program	12.40%	7,223,000	12.05%	7,220,963	(2,038)
Michigan Justice Training Fund	12.40%	7,223,000	12.05%	7,220,963	(2,038)
Legislative Retirement System	1.15%	669,875	1.12%	671,160	1,285
Drug Treatment Courts Fund	2.85%	1,660,125	2.77%	1,659,923	(203)
State Forensic Laboratory Fund	5.60%	3,262,000	5.44%	3,259,920	(2,080)
State Court Fund	13.30%	7,747,250	12.93%	7,748,303	1,052
Court Equity Fund	25.50%	14,853,750	24.79%	14,855,408	1,657
State Treasurer	1.00%	582,500	1.00%	599,250	16,750
State Court Administrative Office	1.00%	582,500	1.00%	599,250	16,750
Proposed Sexual Assault Medical Forensic Intervention & Treatment Fund	--		2.74%	1,641,945	1,641,945
<b>TOTAL</b>	<b>100.00%</b>	<b>58,250,000</b>	<b>100.00%</b>	<b>59,925,000</b>	<b>1,675,000</b>

Under House Bill 5057, using the lower estimates of misdemeanor/felony collections, the existing nine funds that receive a percentage of the JSF are estimated to receive approximately the same funding level they would receive under the current statute within \$2,000 – except for the State Treasurer and SCAO whose amounts were kept at 1 percent. Even though the existing funds' percentages are slightly decreased (by a few tenths of a percent), because of the increased revenue going into the JSF from the felony/misdemeanor assessment, the amount each fund receives, in general, remains the same.

Based on the assumptions above and the lowest estimates of felony and misdemeanor collections, this model would generate an estimated \$1.64 million in funding for the sexual assault victims' medical forensic intervention and treatment fund annually. If the collections on felonies and misdemeanors are higher than the lowest estimates, then all funds would experience an increase from the estimated revenues above. House Bill 5054 requires that money shall not be expended from the Sexual Assault Victims' Medical Forensic Intervention and Treatment Fund the first year of its creation.

The following chart shows the flow of revenue from the Justice System Fund with the proposed changes.

### PROPOSED JUSTICE SYSTEM FUND (HB 5057)



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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.